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Instructions to Commercial Tax Officers regarding prosecutions or levy of sales tax on commission agents.

* 76 *Q.*—SRI B. BHIMA RAO: Will the Hon. the Minister for Land Revenue be pleased to state—

(*a*) whether the Government have issued any instructions to the Commercial Tax Officers of the State not to commence prosecutions or levy sales tax on commission agents after the decision of the Madras High Court in "*the State of Madras* v. *Veerabhadrappa*" reported in 1950 (1) *Madras Law Journal* 564;

(*b*) whether the Commercial Tax Officers are realizing sales tax from commission agents in spite of the above decision;

(*c*) whether commission agents in the district of Bellary who had paid such taxes applied for refund of the same; and if so, whether refunds have been granted to all those who applied; and

(*d*) whether some of them were obliged to file suits in the civil courts and obtain decrees for the amounts realized from them?

THE HON. SRI H. SITARAMA REDDI:—"(*a*) No. An appeal to the Supreme Court is being filed against the judgment of the High Court referred to by the Member.

"(*b*) Yes. Relying on the judgment of JJ Govinda Menon and Mack in A.S. No. 514 of 1947, High Court, Madras, the Commercial Tax Officers are collecting the tax.

"(*c*) Suit notices demanding refund of taxes paid were issued by 119 commission agents in the district of Bellary but refund was not granted in any case. The suit notices were recorded.

"(*d*) Sixty-nine suits were filed by the commission agents, out of which fifteen suits were decided in favour of the plaintiff by the lower courts. Against the decisions of the lower courts appeals have been preferred by the Government in nine cases and they are now pending. In three of the cases, proposals for appeal are under consideration and in the remaining three cases appeals were not considered necessary."

SRI B. BHIMA RAO:—"Have the Government deposited the amounts into the Court in the cases of the decrees that have been passed against the Government?"

THE HON. SRI H. SITARAMA REDDI:—"I would like to have notice of this question, Sir."

SRI B. BHIMA RAO:—"Has the appeal preferred to the Supreme Court against the decision of the Madras High Court been decided?"

THE HON. SRI H. SITARAMA REDDI:—"Not yet decided, Sir."

SRI R. SURYANARAYANA RAO:—"May I know whether execution petitions have been filed against the Government in the cases of the decrees that have been passed?"

THE HON. SRI H. SITARAMA REDDI:—"Some people might have done so, but I have no information."

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Sri B. BHIMA RAO :—" In view of the fact that the Government have preferred an appeal to the Supreme Court against the decision of the Madras High Court, will the Government issue instructions to the Commercial Tax Officers not to launch prosecutions till the Supreme Court gives its final decision on the question? "

The Hon. Sri H. SITARAMA REDDI :—" I shall have that question examined, Sir."

Janab K. T. M. AHAMED IBRAHIM :—" May I know whether this Government have obtained any stay order from the Supreme Court against the execution of the decree passed by the High Court of Madras? "

The Hon. Sri H. SITARAMA REDDI :—" I would like to have notice of the question. If the hon. Member wants the information, I would get it."

Janab K. T. M. AHAMED IBRAHIM :—" If a stay order has not been obtained, is it not the duty of the Government to pay due respect to the decision of the High Court instead of ignoring it? "

The Hon. Sri H. SITARAMA REDDI :—" I would like to draw the attention of the hon. Member to the answer to clause (*b*) of the question that this Government have been relying on another judgment of the same High Court delivered by two Judges."

Sri R. SURYANARAYANA RAO :—" Is it fair on the part of the Government to rely on one judgment which is favourable to them and not to rely on another judgment which is against them? Should they not respect both the judgments? "

The Hon. Sri H. SITARAMA REDDI :—" Necessary respect and attention are paid to the judgments of the High Court."

Sri B. BHIMA RAO :—" Of the two judgments in question, was one judgment delivered by a single Judge and the other delivered by a Bench of two Judges of the Madras High Court? "

The Hon. Sri H. SITARAMA REDDI :—" From the information I have with me, I may say that we are relying on the judgment of JJ. Govinda Menon and Mack in A.S. No. 514 of 1947."

Janab K. T. M. AHAMED IBRAHIM :—" May I know whether the judgment relied upon by the Government has not been referred to in the judgment delivered by the Judge who decided this case? "

The Hon. Sri H. SITARAMA REDDI :—" I do not think so. Otherwise, I would not have acted upon it."